

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Gary Robinson,)
a.k.a. Gary L. Robinson)
Plaintiff,)
vs.)
Michael McCall, *Warden*; Miriam Snyder,) Civil Action No. 4:12-3444-TLW
Inmate Grievance Coordinator; Chris)
Florian, *Office of General Counsel*,)
Defendants.)

)

ORDER

On December 6, 2012, Gary Robinson (“Plaintiff”), a *pro se* prisoner, filed this civil action alleging claims pursuant to 42 U.S.C. § 1983. (Doc. #1). The matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on January 4, 2013, by Magistrate Thomas E. Rogers, III, to whom this case was assigned. (Doc. #11). In the Report, the Magistrate Judge recommends summary dismissal without prejudice and without service of process. (*Id.*) Plaintiff filed objections on January 22, 2013, (Doc. #14), and the Court has reviewed and considered them. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed,

in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. In light of the complaint, the Magistrate Judge properly analyzed the issues asserted. In the objections, the Plaintiff asserts his legal file was destroyed, raising issues not asserted in the complaint. (Doc. #14). After careful review of the Report and objections thereto, the Court hereby **ACCEPTS** the Report, (Doc. # 11), and the case is **DISMISSED** without prejudice and without issuance and service of process. However, in light of the allegations in the objections, the Court grants the Plaintiff 21 days to refile this action.

IT IS SO ORDERED.

s/Terry L. Wooten
Terry L. Wooten
United States District Judge

May 13, 2013
Columbia, South Carolina